

EXHIBIT 3

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WASHINGTON
3

4 CITY OF SPOKANE, a municipal)
corporation, located in the)
5 County of Spokane, State of)
Washington,.)

6)
Plaintiff,)
7)

vs.)

NO. 15-cv-00201-SMJ

8)
MONSANTO COMPANY, SOLUTIA,)
9 INC., and PHARMACIA)
CORPORATION, and DOES 1 through)
10 100,)
)

11 Defendants.)
12
13

14 VIDEOTAPED DEPOSITION
15 OF

16 MICHAEL COSTER

17 September 17, 2019

18 11:21 a.m.

19 510 West Riverside Avenue
20 Spokane, Washington
21
22

23 Reported by:

24 Amy J. Brown, RMR, CRR, WA CCR NO. 2133, ID CCR NO. 700
25 JOB #168206

1 MICHAEL COSTER

2 A. What do you mean by that?

3 Q. Well, what is the average -- what is the
4 workweek that contemplated?

5 Is it based on a 40-hour workweek, or 35?

6 A. Most of the workweek is a 40-hour workweek,
7 though there are some exceptions to that.

8 Q. Okay. Are the employees allowed to work
9 overtime if necessary?

10 A. Yes.

11 Q. Okay. And what are they paid -- what are those
12 hourly employees paid for overtime?

13 A. Time and a half. Double time for holidays.

14 Q. Can you tell me the hourly pay for any of the
15 hourly employees at the plant, whether an all-inclusive
16 number including their benefits and overhead, or without
17 the benefits and overhead number?

18 A. No.

19 Q. Okay. Who would have that information?

20 A. City accounting and perhaps human resources.

21 Q. What is your current salary at the plant?

22 A. I believe it's about 139,000 a year.

23 Q. Okay. What has your role been with respect to
24 development of the NLT system?

25 A. I participated in the pilot, various pilot

1 MICHAEL COSTER

2 projects over the years. Basically, I participated in
3 some of the conceptual design and then review and
4 selection of the final design. Then my other role would
5 be once the contract was underway, would be to oversee
6 the construction activities, cooperating with the
7 contractors such that no non-compliance or safety issues
8 occurred.

9 Q. Okay. And that construction of the NLT has not
10 yet begun; correct?

11 A. NLT is underway.

12 Q. Okay. Who else participated from the City in
13 the pilot programs, the pilot testing?

14 A. It would have been Mike Taylor.

15 Q. Condolences, by the way.

16 A. Lars Hendron. Virtually all of the
17 supervisors, to some extent.

18 Q. The plant supervisors?

19 A. Work group supervisors.

20 Q. Okay.

21 A. There would have been involvement by Fred Brown
22 previously, who was a senior engineer assigned to the
23 treatment plant, and now Chris Peterschmidt, who is a
24 principal engineer assigned to the treatment plant.

25 Q. Okay. Let me just check off this box. Can you

1 MICHAEL COSTER

2 MR. LAND: Objection. Misleading,
3 mischaracterization of facts. You can answer.

4 THE WITNESS: At the current time, it does not
5 have to be operated year-round.

6 BY MR. HAASE:

7 Q. Okay. You would agree that there are no
8 numerical PCB discharge limits for the Spokane River;
9 correct?

10 A. There are water quality limits for the Spokane
11 River.

12 Q. Right. That's river water concentration;
13 right?

14 A. Correct.

15 Q. And that's the 170 ppq; correct?

16 A. Correct.

17 Q. Okay. And but with respect to PCB discharge
18 limits from facilities such as including the Riverside
19 Park facility, there are no numerical PCB discharge
20 limits governing the Riverside Park facility; correct?

21 A. Correct.

22 Q. And isn't it true, Mr. Coster, that the PCB
23 sampling results reported by the task force in both 2016
24 and 2019 all show that the average amounts of PCB
25 concentrations in the Spokane River were below that

1 MICHAEL COSTER

2 A. "Average concentrations at all stations show
3 compliance with the current Washington State water
4 quality standard of 170 picograms per liter."

5 Q. Right. And that is what was reported in this
6 document based on sampling events conducted by the task
7 force in 2014, 2015 and 2016; correct?

8 A. Correct.

9 MR. HAASE: All right. We'll mark as Coster
10 Exhibit 2. Sorry.

11 (Exhibit 2 marked for identification.)

12 BY MR. HAASE:

13 Q. And you'll see that this has already been
14 marked as Lars Hendron Exhibit 53, but this will be
15 Coster Exhibit 2.

16 And over on page 9 -- sorry. What I've handed
17 you is the -- sorry. If you just keep that page, but if
18 you'll flip to the cover.

19 This is the Spokane River Regional Toxics Task
20 Force 2018 Technical Activities Report: Continued
21 Identification of Potential Unmonitored Dry Weather
22 Sources of PCBs to the Spokane River; correct?

23 A. Correct.

24 If you'll excuse me, I'll turn off my bluetooth
25 that connects to my watch.

1 MICHAEL COSTER

2 Q. Sure.

3 A. And we won't have the buzzing going on.

4 Q. Thank you. No problem.

5 All right. And this document was prepared for
6 the Spokane River Regional Toxics Task Force as of
7 February 2019; correct?

8 A. Correct.

9 Q. And on page 9, Figure 2 reflects the Spokane
10 River total PCB concentrations measured during the 2018
11 synoptic survey; correct?

12 A. That's what it says.

13 Q. And it also indicates that the red symbols
14 indicate outliers; correct?

15 A. Yes.

16 Q. Okay. So you'll see over in the left-hand
17 column the total PCBs are listed in picograms per liter,
18 and otherwise known as ppq; correct?

19 A. Correct.

20 Q. And then along the bottom are the sampling
21 sites along the river; correct?

22 A. Correct.

23 Q. And you would agree with me that, with the
24 exception of those two red outliers, all of the data
25 falls within below the 170 ppq state water quality

1 MICHAEL COSTER

2 standard; correct?

3 MR. LAND: I'll object as to misleading and
4 mischaracterizing facts, to the extent you're
5 representing 170 as a water quality standard.
6 Otherwise, you can answer.

7 THE WITNESS: Correct.

8 BY MR. HAASE:

9 Q. And with respect to the two outliers, the red
10 symbols indicated on that Figure 2, I'd ask you to
11 please turn to page A-7, not page 7, but Appendix 7
12 towards the back of the document.

13 Okay. If you'll find Table A-9 at the top. Do
14 you see that?

15 A. Yes, I do.

16 Q. Okay. Table A-9 is the Blank-Corrected
17 Analytical Results from Hangman Creek; correct?

18 A. Correct.

19 Q. And you'll see the asterisk next to August 6th;
20 correct?

21 A. Yes.

22 Q. And then the corresponding asterisks underneath
23 the table. And if you'll just read that corresponding
24 asterisks under the table.

25 A. "PCB results for 8/6 rejected as anomalous due

1 MICHAEL COSTER

2 to elevated mono-chloro and di-chloro homolog
3 concentrations in the sample and associated laboratory
4 blank."

5 Q. So, in other words, on the page 9 chart that we
6 were looking at, those two red outliers were
7 caused -- were determined by the lab group that did the
8 testing to have been caused by elevated PCB
9 concentrations in the sample and associated lab blank;
10 correct?

11 A. That's what the report says.

12 Q. Right. So, in essence, laboratory error;
13 correct?

14 A. That's what the report says.

15 Q. Okay. You would agree, Mr. Coster, that the
16 NLT system was not designed to remove PCBs; correct?

17 MR. LAND: Objection.

18 THE WITNESS: Yes.

19 MR. LAND: Objection. Vague.

20 BY MR. HAASE:

21 Q. And isn't it true that the City stated
22 publicly, in response -- in its comments to the draft
23 2016 NPDES permit, that the City does not know to what
24 extent the NLT would successfully remove PCBs; correct?

25 MR. LAND: Objection. Lacks foundation. Calls

1 MICHAEL COSTER

2 for speculation.

3 THE WITNESS: I would have to see the document.

4 MR. HAASE: Okay. Let's -- let's do that.

5 This will be Coster Exhibit 3.

6 (Exhibit 3 marked for identification.)

7 BY MR. HAASE:

8 Q. Okay. And what I've handed you is the City's
9 Riverside Park Water Reclamation Facility Public
10 Comments to the Draft 2016 NPDES Permit and Fact Sheet;
11 correct?

12 A. Correct.

13 Q. Okay. And the draft 2016 NPDES permit proposed
14 a numerical discharge limitation for PCBs; correct?

15 A. I don't remember.

16 Q. Okay. Well, this document will refresh your
17 recollection. The City actually objected to the 2016
18 NPDES permit's inclusion of a numerical PCB discharge
19 limit; correct?

20 A. I don't remember.

21 Q. Okay. Let's -- let's go to this document. And
22 you'll see that -- well, the 2016 NPDES permit also
23 included the provision that NLT would be operated
24 year-round; correct?

25 A. Are you speaking of the draft permit?

1 MICHAEL COSTER

2 Q. Correct.

3 A. Yes.

4 Q. And that draft permit was never enacted;
5 correct?

6 A. Correct.

7 Q. Okay. And this was the City's opportunity to
8 provide public comments, along with others, that would
9 be affected by that draft permit on the proposed permit
10 requirements; correct?

11 A. Yes.

12 Q. Okay. And you'll see that under the summary on
13 the first page here, page 1 of 6, second paragraph, the
14 City requested the current limits with respect to fecal
15 coliforms be maintained because it believed that the
16 limits were sufficient to protect the water quality
17 standard; correct?

18 A. Correct.

19 Q. Okay. And then in the very next paragraph, I'd
20 like to you read that para -- that next paragraph aloud,
21 please.

22 A. "The City requests the decision whether to
23 operate NLT year-round be deferred. There is currently
24 only limited data on the additional benefit of
25 year-round NLT for PCB removal. The City will be

1 MICHAEL COSTER

2 conducting further study of PCB removal through the NLT
3 system after that system has been installed. While the
4 City is hopeful that NLT will provide cost-effective PCB
5 removal at RPWRF, there is not" yet -- "there is not
6 enough data yet to conclude that it should be operated
7 year-round to control PCBs."

8 Q. Okay. And if you'll turn to page 4 of 6, the
9 second bullet point from the bottom, S-13, page 44, list
10 item 2, do you see that?

11 A. Yes.

12 Q. Okay. If you'll read that portion aloud,
13 please.

14 A. "There are no PCB design loadings associated
15 with the NLT treatment system design. NLT was
16 constructed solely for phosphorus removal and compliance
17 with the DO TMDL requirements. While additional PCB
18 removal may be achieved through this system, it is not
19 verified, and PCB removal was not a design
20 consideration. The City suggests changing or removing
21 this item."

22 Q. Okay. And that's what the City wrote in public
23 formal comments; correct?

24 A. Correct.

25 Q. And so the City is writing here that the City

1 MICHAEL COSTER

2 didn't test for PCB removal by NLT sufficiently to draw
3 any scientifically reliable conclusions on PCB captured
4 by the NLT system; correct?

5 MR. LAND: Objection. Mischaracterization of
6 what's said here, and misleading.

7 THE WITNESS: Correct.

8 BY MR. HAASE:

9 Q. And the City is writing in this document in the
10 public formal comments that it doesn't and won't know
11 the NLT system's effectiveness at PCB removal until a
12 separate pilot study can be conducted down the line;
13 correct?

14 MR. LAND: Objection. Mischaracterization of
15 what this document said and the document speaks for
16 itself.

17 THE WITNESS: I don't think it says anything
18 about pilot testing, does it?

19 BY MR. HAASE:

20 Q. Well, it's -- let me rephrase the question.

21 Well, yeah, let's go down to the last bullet
22 point on this page. If you'll read the last bullet
23 point.

24 A. "Rather than being required to operate NLT
25 year-round to control PCBs beginning in 2026, the City

1 MICHAEL COSTER

2 critical seasons; (3) impacts to other plant processes;
3 and (4) the unknown unit cost of PCB removal in the
4 non-critical season relative to other BMPs.

5 "Consequently, the City requests that it be
6 allowed to conduct a PCB pilot using a separate membrane
7 treatment unit, concurrent with optimization of the NLT
8 system, and subsequently phase in year-round operation
9 for PCB removal, rather than risk damaging a portion of
10 the membrane system.

11 "If such damage occurred, it could impact
12 nutrient removal, affect other plant processes, and/or
13 pollutant removals, and be prohibitively expensive to
14 repair."

15 Q. Okay. So you would agree what the City is
16 writing in this document or wrote in this document is
17 that the City doesn't currently have any scientifically
18 reliable conclusions about the NLT system's
19 effectiveness at removing PCBs until a separate pilot
20 study can be conducted several years down the line;
21 correct?

22 MR. LAND: Objection. The document speaks for
23 itself, and misleading.

24 THE WITNESS: Correct, according to the
25 document.

1 MICHAEL COSTER

2 Q. Okay. And if you'll turn to number 4,
3 paragraph number 4, where it says, "The City of Spokane
4 managed risk by: A, selecting only technologies with a
5 proven ten year history in the field; and, B, piloting
6 the processes with actual run-of-the-plant effluent
7 through all scenarios. This resulted in our finding:
8 i. We get significant algae and Daphnia blooms even in
9 winter. Potential massive disruption of membranes. We
10 have plans to deal with it."

11 Correct?

12 A. That's what it says.

13 Q. Okay. Do you have any reason to disagree that
14 the City gets significant algae and Daphnia blooms even
15 in the wintertime?

16 A. In my recollection, the algae and Daphnia
17 blooms can occur outside the critical season. I don't
18 know if they truly occur during winter, as defined, you
19 know, by the calendar.

20 Q. Okay. But you would agree that, you know,
21 winter encompasses the non-critical season months;
22 correct?

23 A. Yes.

24 Q. Okay. And that's what Mr. Taylor is writing to
25 Ms. Heatherly in this e-mail; correct?

1 MICHAEL COSTER

2 A. Correct.

3 Q. Okay. And you would agree that significant
4 algae and Daphnia blooms would be potential massive
5 disrupters to membranes, even if they occur in the
6 wintertime; correct?

7 MR. LAND: Objection. Vague, incomplete
8 hypothetical.

9 THE WITNESS: Correct.

10 MR. HAASE: Okay. I'm going to mark as Exhibit
11 Coster 5 the PALL Corporation Microfiltration System
12 Operation and Maintenance Manual for the City of Spokane
13 Wastewater Management dated August 2017.

14 (Exhibit 5 marked for identification.)

15 BY MR. HAASE:

16 Q. And if you'll turn to page 104, please. And
17 just by way of background, the City selected the PALL
18 Corporation's Aria Flex microfiltration system for its
19 NLT system; correct?

20 A. Correct.

21 Q. Okay. And so this is the operation and
22 maintenance manual prepared by Pall Corporation for that
23 NLT membrane system that the City purchased. And I'd
24 like to turn your attention to page 104. All right.
25 And you see Section 5.3, Short, Mid and Long Term

1 MICHAEL COSTER

2 Shutdown of the System Layoff?

3 A. Yes.

4 Q. Okay. All right. If you'll just read the
5 first three sentences, and I'll tell you when to stop.
6 Aloud, please.

7 A. Okay. "A short-term shutdown is a system
8 shutdown that lasts for less than 16 hours. A mid-term
9 shutdown is a system shutdown that lasts for 16 to
10 72 hours. A long-term shutdown is greater than
11 72 hours."

12 Q. Okay. And the next sentence, too.

13 A. "Pall Corporation recommends avoiding the
14 system shutdowns, if possible."

15 Q. Okay. And why does Pall Corporation recommend
16 avoiding system shutdowns?

17 MR. LAND: Objection. Calls for speculation.

18 THE WITNESS: I don't know.

19 BY MR. HAASE:

20 Q. System shutdowns could lead to harmful bacteria
21 growth in the membranes; correct?

22 MR. LAND: Objection. Calls for speculation.

23 THE WITNESS: I don't know.

24 BY MR. HAASE:

25 Q. Are you -- this is the system that the City

1 MICHAEL COSTER

2 than 72 hours, do you see the last sentence where it
3 says, "For a long-term shutdown, the system is shutdown
4 in the same way as with the short- and mid-term
5 shutdowns, but to ensure there's not biological growth
6 on the filters or piping, Pall Corporation strongly
7 recommends circulating chlorinated water through the
8 system after shutting down."

9 A. That's what it says.

10 Q. Okay. And so there is a concern here that Pall
11 Corporation is expressing to the City, the purchaser and
12 owner of this NLT membrane system, that for a shutdown
13 greater than 72 hours, there's concern for biological
14 growth on the filters or piping; correct?

15 MR. LAND: Objection. The document speaks for
16 itself, and misleading.

17 THE WITNESS: It appears to say that.

18 BY MR. HAASE:

19 Q. Okay. And if one were not to -- well, let me
20 strike that question and rephrase.

21 Are you aware of any PALL wastewater treatment
22 systems anywhere in the world where the owner
23 voluntarily shuts the system down on a seasonal basis?

24 A. I don't have any knowledge either way.

25 Q. Do you know what you would have to do to the

1 MICHAEL COSTER

2 membranes if you were to shut them down during the
3 non-critical season months to preserve their integrity
4 and prevent harmful biological growth in both the
5 membranes and the piping?

6 MR. LAND: Objection. Compound.

7 THE WITNESS: We would follow manufacturer's
8 recommendation.

9 BY MR. HAASE:

10 Q. Do you know what those are?

11 A. This is the first time I've read this.

12 Q. Okay. And have you done or are you aware of
13 any having been done, calculations on the cost of
14 complying with the manufacturer's recommendations about
15 preserving membrane and piping health if you're to shut
16 them down during a long-term shutdown?

17 A. I'm not aware of any.

18 Q. And there's no membrane system need to shut it
19 down for four months; correct?

20 MR. LAND: Objection. Calls for speculation.

21 THE WITNESS: Not that I'm aware of.

22 BY MR. HAASE:

23 Q. With the Pall Corporation recommending avoiding
24 system shutdowns, if possible, you'd agree that Pall
25 Corporation designs their membrane systems to be

1 MICHAEL COSTER

2 operated year-round; correct?

3 MR. LAND: Objection. Lacks foundation and
4 calls for speculation.

5 THE WITNESS: It wouldn't appear to suggest
6 that it be operated at full scale.

7 BY MR. HAASE:

8 Q. But it does suggest that it be operated
9 year-round and not taken offline and mothballed for as
10 long as four months; correct?

11 MR. LAND: Objection. Lacks foundation, calls
12 for speculation.

13 THE WITNESS: I don't know. It appears that
14 they would say that it needs to be operated in some
15 fashion.

16 BY MR. HAASE:

17 Q. Year-round; correct?

18 A. It would appear to say that.

19 Q. Okay. And have you, or anyone associated with
20 the City that you're aware of, calculated the
21 operational cost of shutting down the NLT system during
22 the non-critical months?

23 A. I don't recall that.

24 Q. And PALL gave the City an 11-year warranty for
25 its membrane modules; correct?

1 MICHAEL COSTER

2 answer to your question about how long would membranes
3 last if rarely used and only maintained versus heavily
4 used and heavily maintained. He notes that the product
5 has been around for 20 to 25 years but doesn't know if
6 the membranes we install would last the ten years we
7 asked proposers to guarantee. Although PALL is
8 guaranteeing 11 years, or 20 years, for example. He
9 also notes that running the membranes year-round is a
10 bit of a different animal than if we were laying fallow
11 during the winter."

12 Q. And that's what Paul Mueller told Lars Hendron,
13 city engineer, in this e-mail with respect to membrane
14 life and cost assessment; correct?

15 MR. LAND: Objection. Calls for speculation
16 and entirely mis-states the document.

17 THE WITNESS: According to the e-mail.

18 BY MR. HAASE:

19 Q. Thank you.

20 Isn't it true, Mr. Coster, that during the
21 non-critical season months the City's stormwater and
22 wastewater still has significant amounts of constituents
23 subject to TMDL discharge limitations, including
24 phosphorus? Correct?

25 A. Yes.

1 MICHAEL COSTER

2 Q. CBOD?

3 A. Correct.

4 Q. Fecal coliform?

5 A. Correct.

6 Q. Ammonia?

7 A. Correct.

8 Q. Total suspended solids?

9 A. Correct.

10 Q. And metals like cadmium and zinc?

11 A. Correct.

12 Q. And isn't it true that the City determined that
13 operating the NLT system during the non-critical season
14 months removed very significant amounts of those
15 constituents subject to TMDL discharge limits?

16 A. Was it for the --

17 MR. LAND: Objection. Vague.

18 THE WITNESS: Was it for the
19 non-critical -- the discharge limits non-critical season
20 permit limits, or just in general?

21 BY MR. HAASE:

22 Q. In general, whether during the critical season
23 or the non-critical season. Well, let's talk about the
24 non-critical season. That was the specific focus of my
25 question.

1 MICHAEL COSTER

2 Q. All right. Now, I'd like to call your
3 attention to the columns for estimated average annual
4 pollutant removal, and you'll see total phosphorus
5 pounds per year; correct?

6 A. Correct.

7 Q. All right. And you'll see that, as set forth
8 here, the total phosphorus pounds per year removed
9 during the critical season by membrane filtration is
10 35,622 pounds per year; correct?

11 A. Correct.

12 Q. And during the non-critical season, the
13 membrane filtration more than doubles that phosphorus
14 capture from 35,622 pounds per year to 84,700 pounds per
15 year; correct?

16 A. Correct.

17 Q. And that -- that is phosphorus that would
18 otherwise be going out of the facility, into the river,
19 and ultimately end up in Long Lake; correct?

20 A. It would have no environmental impact.

21 Q. I didn't ask you that question.

22 A. Okay.

23 Q. That is phosphorus that would otherwise go out
24 the Riverside pipe into the river, into the Spokane
25 River, and ultimately end up in Long Lake; correct?

1 MICHAEL COSTER

2 A. Correct.

3 Q. And that phosphorus, though it would go out
4 during the non-critical season, it would be present in
5 the -- it would still be there because it hasn't been
6 filtered out. It would be present during the critical
7 season months; correct?

8 A. Repeat that.

9 Q. Yeah. Because those 84,700 pounds of
10 phosphorus were not filtered out if you were not
11 operating NLT during the non-critical season, that would
12 go out the pipe, end up in the river, and Long Lake, and
13 be present during the critical season months; correct?

14 MR. LAND: Objection. Compound, calls for
15 speculation.

16 THE WITNESS: I don't know what the detention
17 time would -- if that would be the result.

18 BY MR. HAASE:

19 Q. Okay. Well, let's look at the fecal coliform,
20 billions of CFUs per year. And those are colony-forming
21 units; correct?

22 A. Correct.

23 Q. And in microbiology, a colony-forming unit
24 is -- means the number of viable bacteria cells in a
25 sample; correct?

1 MICHAEL COSTER

2 12:54.

3 (A brief recess was had.)

4 VIDEOGRAPHER: We're back on the record with
5 the continued video deposition of Mike Coster, and
6 Number 2. The time is now 1:42.

7 (Exhibit 9 marked for identification.)

8 MR. HAASE: Okay. I'm just going to mark
9 Exhibit 9, the -- I'm going to hand that to you and then
10 I'll identify it.

11 You guys have -- you can share that or you have
12 the earlier one.

13 MR. LAND: Yeah.

14 BY MR. HAASE:

15 Q. Okay. Mr. Coster, I'm handing you a copy of
16 the NLT Facility Critical and Non-Critical Season Annual
17 Operating Cost in 2018 Dollars chart that was provided
18 to us by the City's counsel on Friday, September 13,
19 2019, just this past Friday, and I want to ask you some
20 questions about it.

21 Mr. Coster, if I can just have your attention
22 for a couple of questions to start, and then I'll move
23 into the chart.

24 How many employees does the City plan to use to
25 operate the NLT system?

1 MICHAEL COSTER

2 A. That is actually still open to some questions.

3 Q. What are the discussions that you are familiar
4 with in that respect?

5 A. Since we don't have much experience or any
6 experience operating membrane facilities, what their
7 maintenance and operational demand are, there's a lot of
8 discussion about, you know, what anticipated needs will
9 be.

10 Q. Okay. And is it fair to say that you currently
11 don't know, the City doesn't know, the current labor
12 needs for operating the NLT system?

13 A. We don't know with any certainty.

14 Q. Okay. And has PALL, the membrane manufacturer,
15 made any recommendations in that regard?

16 A. They've made some recommendations, but not very
17 detailed ones.

18 Q. Okay. Have they recommended, you know, a
19 number of employees, for example, necessary to operate
20 the NLT system?

21 A. Yes.

22 Q. And what has PALL recommended?

23 A. PALL recommended, I believe -- this is from
24 memory -- in a brief e-mail at least an extra operator
25 per shift, and I believe an extra maintenance.

1 MICHAEL COSTER

2 Sometimes vendors will intermix operations and
3 maintenance. They will sometimes -- they don't break it
4 down into whether it would be primarily electrical
5 instrumentation people, or maintenance people, you know,
6 mechanical maintenance people.

7 Q. Okay. So that's -- that would be over and
8 above the current staff that's operating the primary and
9 secondary treatment plant that's in existence right now
10 at the Riverside facility; correct?

11 A. Yes.

12 Q. And those one extra operator and one extra
13 maintenance person per shift --

14 A. Could I correct one item that I said?

15 Q. You may.

16 A. Basically, they made the statement about during
17 day shifts, I believe, extra maintenance personnel, one
18 person.

19 Q. Okay. But not during the night shift?

20 A. No, I don't think they made that
21 recommendation.

22 Q. Okay. So one extra operator per day shift and
23 per night shift, but one extra maintenance person only
24 per day shift; correct?

25 A. I believe so.

1 MICHAEL COSTER

2 Q. Okay. And is it your understanding
3 that -- well, have -- what would be a commensurate
4 hourly rate for the extra operator?

5 A. I do not know.

6 Q. Can you give me -- can you estimate for me an
7 acceptable hourly rate range that the City would pay the
8 one extra NLT operator recommended by the membrane
9 manufacturer PALL?

10 A. I couldn't give you an accurate range.

11 Q. Okay. And they would be -- both the extra
12 operator and the extra maintenance person would be
13 hourly employees, not salaried employees; correct?

14 A. Correct.

15 Q. Okay. And would you -- does the day shift
16 versus night shift, is there an hourly wage difference
17 in the current employees?

18 A. There's a -- go ahead.

19 MR. LAND: No. No. I was --

20 THE WITNESS: There's a slight shift
21 differential.

22 BY MR. HAASE:

23 Q. Within a dollar?

24 A. Couldn't say.

25 Q. Okay.

1 MICHAEL COSTER

2 round that would include that provision?

3 A. You start thinking about projected labor needs.

4 Q. Okay. Do you -- do you expect that this next
5 City budget would actually include amounts for NLT
6 operating cost?

7 A. I don't know.

8 Q. Okay. You're unsure whether the discussions
9 would reach the stage --

10 A. I can't predict what the City Council and the
11 administrations will do.

12 Q. And when -- I mean, is there a deadline? When
13 is the budget typically passed?

14 A. I don't have that specific information.

15 Q. Okay. Is there a deadline for you to submit
16 information about anticipated NLT operational cost for
17 potential inclusion in the City budget?

18 A. I don't know those deadlines.

19 Q. Has the City started to recruit for any of the
20 NLT operator or maintenance positions?

21 A. No, unless you include the development of civil
22 service lists as being a potential supplier.

23 Q. Okay. But have there been any advertisements
24 describing the job responsibilities and hours and
25 potential in salary?

1 MICHAEL COSTER

2 A. As associated with NLT?

3 Q. Yes.

4 A. No.

5 Q. And isn't it true that the average wastewater
6 treatment operator job in Spokane, Washington, pays \$19
7 an hour?

8 MR. LAND: Objection. Lacks foundation, calls
9 for speculation.

10 THE WITNESS: I don't know.

11 BY MR. HAASE:

12 Q. Are you familiar with the ZipRecruiter website?

13 A. No.

14 Q. Okay. So you don't know one way or the other
15 whether that's accurate, reflecting \$19 an hour in
16 Spokane as the average wastewater treatment operator
17 job?

18 MR. LAND: Objection. Assumes facts.

19 THE WITNESS: I do not know.

20 MR. HAASE: Okay. All right. I'd like to mark
21 as the next exhibit Coster 10.

22 (Exhibit 10 marked for identification.)

23 BY MR. HAASE:

24 Q. All right. And what I've just marked as
25 Exhibit 10 is an e-mail from you to Lars Hendron dated

1 MICHAEL COSTER

2 testing, chemicals, and that sort of thing. If I
3 recall, it was a lack of spill containment for the
4 pilot.

5 Q. Okay. And you wouldn't have -- it's fair to
6 say you wouldn't have described it as a chronically
7 disturbing situation if there weren't --

8 A. Correct.

9 Q. -- multiple other examples by CH2M; correct?

10 A. It's a chronic situation with contractors and
11 people in general at wastewater plants that do work
12 there.

13 Q. Okay. And it was chronic with respect to CH2M
14 over the life of this project, as well; correct?

15 A. During this project.

16 MR. LAND: Objection. Vague.

17 BY MR. HAASE:

18 Q. During this project, yes?

19 A. Yes.

20 MR. HAASE: Okay. And I would next like to
21 mark as Exhibit Coster 11.

22 (Exhibit 11 marked for identification.)

23 BY MR. HAASE:

24 Q. I've handed you a cover letter dated April 29,
25 2019, from Scott Simmons, director of the City of

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2 Spokane Public Works, with a letter directed to
3 Department of Ecology, Cheryl Niemi, Surface Water
4 Quality Standards Specialist; correct?

5 A. Correct.

6 Q. And behind that, and enclosed with the letter,
7 as reflected at the bottom of the cover letter, is the
8 City of Spokane's April 2019 variance application;
9 correct?

10 A. Correct.

11 Q. And this represents the City of Spokane's
12 April 2019 application for an individual discharger
13 variance from the Washington State Human Health Water
14 Quality Standard for total PCBs; correct?

15 A. Correct.

16 Q. And at the time this was written, it was 7
17 picograms per liter, but then in May that was withdrawn
18 and the 170 ppq was reinstated; correct?

19 MR. LAND: Objection. Misleading.

20 THE WITNESS: I don't really know.

21 MR. LAND: Facts not in evidence. You can
22 answer.

23 MR. HAASE: All right. Withdrawn.

24 THE WITNESS: Okay.

25 BY MR. HAASE:

1 MICHAEL COSTER

2 Q. Well, let's look at the footnote on the bottom.

3 A. Which page?

4 Q. Footnote A on page 1 of 26. All right. If
5 you'll just read that footnote aloud, please.

6 A. Okay.

7 "We understand the EPA is in the process of
8 reconsidering the current Human Health Water Quality" --

9 Q. Standard.

10 A. -- "Standard. As a result, might approve the
11 standard of 170 picograms per liter that is promulgated
12 by Ecology on August 1st, 2016, and disapproved by EPA
13 on November 15, 2016. The analysis in this application
14 applies with equal force to an HHWQS of 170 picograms
15 per liter. For example, the highest attainable
16 condition in the Pollution Minimization Plan would be
17 the same if the standard is 7 picograms per liter or 170
18 picograms per liter. The 20-year duration would still
19 be necessary and the variance would still be reviewed
20 every five years."

21 Q. Okay. So what the City is saying to Ecology in
22 this variance application is that regardless of whether
23 it's 7 ppq or 170 ppq, they are still advocating for the
24 same variance that would last 20 years; correct?

25 A. That's what the document says.

1 MICHAEL COSTER

2 Q. Okay. And back up to the first paragraph,
3 second sentence from the end, what the City is proposing
4 is a 20-year individual discharger variance with the
5 interim highest attainable effluent condition of 792
6 picograms per liter; correct?

7 A. That's what the document says.

8 Q. Okay. And the 792 picograms per liter is the
9 same as 792 ppq; correct? Picograms per liter is the
10 same as ppq?

11 A. Oh, yeah.

12 Q. Correct. Okay.

13 And the City has stated at the bottom, last
14 sentence in the second paragraph, that an individual
15 discharger variance is the only available option for the
16 City to maintain compliance with the Clean Water Act and
17 ensure that reasonable further progress is made toward
18 improving the water quality of Spokane River; correct?

19 A. That's what the document says.

20 Q. Okay. Now, on page 3 of 26, the middle
21 paragraph, if you'll just -- I'll allow you to flip to
22 that. If you'll just read aloud the paragraph that --

23 A. Could you show me the --

24 Q. Sure. "The proposed duration."

25 A. Okay.

1 MICHAEL COSTER

2 "The proposed duration of this variance is
3 20 years, with review every five years. It currently is
4 in the process of making a significant investment into
5 its wastewater infrastructure, as described in the ICWP.
6 The 20-year timeline coincides with the end of the
7 current annual payments on 200 million in green revenue
8 bonds that were sold in late 2014 to fund the ICWP
9 projects and would be the earliest the City anticipates
10 being able to consider additional treatment options,
11 should any feasible alternatives be identified."

12 Q. Okay. And then over on page 4 of 26 -- before
13 I get there, in that last paragraph, the ICWP,
14 Integrated Clean Water Plan; correct?

15 A. Yes.

16 Q. Okay. And then flipping over to page 4 of 26,
17 if you'll read the paragraph starting in the middle with
18 "the City proposes." Actually, just read that first
19 sentence.

20 A. "The City proposes a highest attainable
21 use/condition as expressed by -- expressed by an interim
22 effluent condition of 792 picograms per liter total PCBs
23 in RPWRF effluent."

24 Q. And the next sentence, too, please.

25 A. "The interim effluent condition represents the

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2 anticipated greatest pollutant reduction achievable with
3 the pollutant-control technologies installed at the time
4 the variance would be adopted."

5 Q. Okay. And that's what the City wrote to
6 Ecology; correct?

7 A. Yes.

8 Q. All right. And if you'll flip to page 14,
9 please, and if you'll just read the introductory
10 paragraph before the bullet points.

11 A. Okay. "While similar PCB removal is expected
12 compared to the SCRWRF membrane facility, there still is
13 some uncertainty on the exact level of PCB treatment the
14 RPWRF tertiary membrane process will provide."

15 Q. Okay. And then it goes on -- well, first of
16 all, that's the Spokane County Water Reclamation
17 Facility referenced, SCRWRF; correct?

18 A. Correct.

19 Q. Okay. So this is -- in this section, the City
20 is describing how there are differences between the
21 Spokane County facility and the, you know, Riverside
22 Park pending NLT facility, there's uncertainty because
23 of differences and they can't just rely on the
24 river -- on the Spokane County PCB removal figures;
25 correct?

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2 A. Correct.

3 Q. Okay. And it goes on and lists one, two,
4 three, four, five -- six different compelling reasons
5 why there's uncertainty and you can't rely on the
6 Spokane County PCB removal figures; correct?

7 A. Correct.

8 Q. And then if you'll read the -- the paragraph
9 right underneath those bullet points aloud, please.

10 A. "Given there are enough differences between
11 SCRWRf and RPWRf, the final HAC for RPWRf will need to
12 be refined once enough PCB data is collected from the
13 RPWRf membrane facility. If the City is granted an
14 HHWQS variance for total PCBs, the City requests that
15 the HAC be updated to reflect the actual treatment
16 provided by NLT, once it is online and fully optimized,
17 during the required five-year variance review process by
18 Ecology. The updated HAC will be submitted to Ecology
19 during the first five-year review process."

20 Q. Okay. And then if you'll just continue down
21 the rest of that section. Below is the a schedule, and
22 if you'll just read the schedule and the description and
23 the anticipated timeline out loud, please.

24 A. The sentence above it, as well?

25 Q. From "below" to the actual schedule.

1 MICHAEL COSTER

2 A. Okay.

3 Q. Thank you.

4 A. "Below is a schedule of actions the City plans
5 to undertake to ensure that the HAC is attained within
6 the variance period and to ensure progress toward
7 attaining the underlying designated use and
8 criteria -- criterion. Schedule of actions to be
9 completed to ensure HAC is attained within the variance
10 period."

11 There's a table.

12 The action installation of NLT tertiary
13 membrane upgrades at RPWRF: Spring 2021. Optimization
14 of tertiary membrane processes: 2021 through 2022.
15 Effluent PCB data collection for development of final
16 RPWRF HAC: 2021 - 2025. Development of final HAC
17 relevant to RPWRF: Winter 2025. Ongoing implementation
18 of pollution minimization plan: 2021 through 2041.

19 Q. Okay. And so the City has requested of Ecology
20 a 20-year variance of the PCB discharge limits,
21 specifically requesting 792 picograms per liter;
22 correct?

23 A. Yes.

24 Q. And what the City is -- has written and
25 proposed in its application for that variance to Ecology

1 MICHAEL COSTER

2 is the collection of PCB effluent data for development
3 of the final Riverside Park Highest Attainable Condition
4 number over the course of, you know, piloting that NLT
5 system from 2021 to 2025; correct?

6 MR. LAND: Objection. Vague, ambiguous.

7 THE WITNESS: Correct, I believe, with a
8 five-year review process.

9 BY MR. HAASE:

10 Q. Right. And they need to -- what the City is
11 telling Ecology is they need to run NLT for at least
12 that five-year period from 2021 -- actually, yeah,
13 they're going to collect the PCB effluent data during
14 that five-year period, 2021 to 2025; correct?

15 A. I believe so.

16 Q. And that the final HAC, Highest Attainable
17 Condition, for PCB effluent discharge can't be
18 reasonably scientifically estimated until that's done;
19 correct?

20 MR. LAND: Objection. Misleading, mis-states
21 the document, calls for speculation.

22 THE WITNESS: It's what the document says.

23 BY MR. HAASE:

24 Q. Okay. And once they spend the five years
25 collecting that PCB effluent data to be used for